IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Crl.Rev.Pet.No. 214 of 1998()

CC.230/1996 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY
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REVN. PETITIONER:

V. BHASKARAN NAMBIAR,
S/O. CHANDU NAMBIAR,
VENGINISSERY HOUSE,
MAVILAYI P.O.,
KANNUR DISTRICT.

BY ADV. SRI.V. RAMKUMAR NAMBIAR

RESPONDENTS:
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1. V. BALAKRISHNAN NAMBIAR,
S/O. PAITHAL NAMBIAR,
RETIRED POLICE (C.R.P.F)
MAVILAYI P.O.,

2. V. SUBRAMONIAN,
S/O. MADHAVAN NAIR,
MAVILAYI P.O.,
KANNUR DISTRICT.

3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.P.V.SURENDRANATH
SRI. BREEZE M.S., PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/03/1998, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 214 OF 1998

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Dated this the 1st day of March 2007

O R D E R

The revision petitioner is the complainant in C.C. No.230/96 with respect to the offences under sections 323, 324 r/w section 34 of the Indian Penal Code. The court below acquitted the the accused after considering the evidence adduced in the matter which consisted of the testimony of PWs 1 to 9 and Exts. P1 to P4. The allegation is that on 20.09.1994 at about 8.15 am the accused were found encroaching into the property of the sister of CW1, the complainant and when obstructed, was attacked and inflicted injuries on the defacto complainant and CW2. The direct evidence is the testimony of PW1 alone. It is admitted by the Investigating Officer that the incident occurred on account of a boundary dispute. There was also a counter case with respect to the same incident. The weapons of the offence were not recovered. It was also found that only very minor injuries were

sustained by PW1. It was found that the injury sustained by the witnesses in the counter case is more serious than the injuries sustained by the petitioner. On appreciation of the evidence adduced in the matter, the court below found that the prosecution has failed to establish the charge.

2. On a consideration of the evidence adduced in the matter I find that on the solitary evidence of PW1 alone, it is not possible to enter a finding as to who was the real aggressor. In the circumstances, I find no reason to interfere in the findings of the court below.

The Crl.R.P is dismissed accordingly.

K.R. UDAYABHANU, JUDGE.

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